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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 HENRY JAMES,

11 Plaintiff,

12 v.

13 SGT. F. THOMAS, et al.,

14 Defendants.
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Case No. C21-303RSM

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

16 This matter comes before the Court on the Motion to Appoint Counsel filed by Plaintiff
17 Henry James. Dkt. #15. Defendants have filed an opposition brief. Dkt. #16. Mr. James is
18 currently proceeding *pro se* and *in forma pauperis*. See Dkt. #6.

19 In civil cases, the appointment of counsel to a *pro se* litigant “is a privilege and not a
20 right.” *United States ex. Rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation
21 omitted). “Appointment of counsel should be allowed only in exceptional cases.” *Id.* (citing
22 *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963)). A court must consider together “both the
23 likelihood of success on the merits and the ability of the petitioner to articulate his claims *pro*
24 *se* in light of the complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952,
25 954 (9th Cir. 1983). In “exceptional circumstances,” a district court may appoint counsel for
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1 indigent civil litigants. 28 U.S.C. § 1915(e)(1); *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th
2 Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998).

3 Mr. James has thoughtfully presented his claims with detailed factual allegations
4 connected to legal arguments. *See* Dkt. #7. The Complaint clearly demonstrates a capacity to
5 proceed in this case pro se. The Court cannot conclude on this thin record whether his claims
6 have a strong likelihood of success on the merits. Mr. James, no longer incarcerated, has
7 presented some evidence of searching for counsel years ago, but has not demonstrated that a
8 continued search is futile. He has otherwise failed to set forth exceptional circumstances.
9 Given all of the above, the Court will deny this Motion at this time.
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11 Having considered the briefing from the parties and the remainder of the record, the
12 Court hereby FINDS and ORDERS that Plaintiff's Motion to Appoint Counsel, Dkt. #15, is
13 DENIED.
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15 DATED this 2nd day of June, 2021.
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19 RICARDO S. MARTINEZ
20 CHIEF UNITED STATES DISTRICT JUDGE
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